

CHAPTER 880

Daily Short-Term Rental Tax

880.01	Definitions.	880.09	Consequences of failure or refusal to collect tax.
880.02	Levy and rate of tax.	880.10	Surcharge and interest; failure to file return or pay over taxes collected.
880.03	Exemptions from tax.	880.11	Uncertified renters prohibited from collecting tax.
880.04	Short term rental business application for certificate of registration.	880.12	Failure to file for certificate of registration.
880.05	Issuance and effect of certificate of registration for short-term daily rental business.	880.13	Taxation of rental property that is not daily rental property.
880.06	Collection and recordkeeping.	880.14	Effective date.
880.07	Filing of quarterly tax returns and remittance of tax.	880.99	Penalty.
880.08	Taxes held in trust for the County.		

CROSS REFERENCES

Authority to impose - see Code of Va. '58.1-3510.1
 Commissioner of the Revenue - see ADM. Ch. 222
 Treasurer - see ADM. Ch. 224
 Payment of taxes by credit card - see ADM. 224.01
 Exemptions from penalty and interest - see B.R. & T. 864.01
 Erroneously assessed levies - see B.R. & T. 864.02

880.01 DEFINITIONS.

For the purposes of this chapter, the following words and phrases shall have the meanings respectively ascribed to them by this section.

- (a) "Affiliated" means any common ownership interest, in excess of five percent, of any officers or partners in common with the lessor and lessee.
- (b) "Certificate of registration" means the annual certificate issued by the Loudoun County Commissioner of the Revenue to persons engaged in the short-term rental business in Loudoun County who make application for such certificate pursuant to Section 880.04.
- (c) "Commissioner of the Revenue" means the Commissioner of the Revenue of Loudoun County, Virginia, and any of the Commissioner's duly authorized deputies or agents.
- (d) "County" means Loudoun County, Virginia.

- (e) "Daily rental property" means all tangible personal property held for rental and owned by a person engaged in the short-term rental business, as defined in subsection (i) hereof, except trailers, as defined in Section 46.2-100 of the Code of Virginia, and other tangible personal property required to be licensed or registered with the Department of Game and Inland Fisheries, or the Department of Aviation.
- (f) "Gross proceeds" means the total amount charged, including penalties, late charges or interest, to each person for the rental of daily rental property from a short-term rental business with a valid certificate of registration, excluding any State and local sales taxes paid pursuant to Chapter 6 of Title 58.1 of the Virginia Code. Gross proceeds is the taxable basis for the daily rental tax.
- (g) "Gross rental receipts" means all proceeds from rentals during a calendar year, except that the proceeds from the rental of personal property which also involves the provision of personal services for the operation of the personal property shall not be treated as gross receipts from rental. For purposes of this section, the delivery and installation of tangible personal property shall not mean operation.
- (h) "Person" means and includes individuals, firms, partnerships, associations, corporations and combinations of individuals of whatever form and character.
- (i) "Short-term rental business" means any person engaged in the short-term rental of daily rental property, as defined in subsection (e) hereof, if:
 - (1) Not less than eighty percent of the gross rental receipts of such business in any year is from transactions involving rental periods of ninety-two consecutive days or less, including all extensions and renewals to the same person or a person affiliated with the lessor; and provided that:
 - (2) Any rental to a person affiliated with the lessor shall be treated as rental receipts but shall not qualify for purposes of the eighty percent requirement. (Ord. 89-14. Passed 9-19-89.)

880.02 LEVY AND RATE OF TAX.

Pursuant to Section 58.1-3510.1 of the Code of Virginia, and in addition to all other taxes of every kind now or hereafter imposed by law, Loudoun County hereby levies and imposes on every person engaged in the short-term rental business a tax of one percent on the gross proceeds, as defined in Section 880.01(f), of such business. Such tax shall be in addition to the tax levied pursuant to Section 58.1-605 of the Code of Virginia. (Ord. 89-14. Passed 9-19-89.)

880.03 EXEMPTIONS FROM TAX.

(a) No tax hereunder shall be collected or payable on rentals to the Commonwealth of Virginia, to any political subdivision of the Commonwealth or to the United States.

(b) No tax hereunder shall be collected or payable for any rental of durable medical equipment as defined in subdivision 7.b. of Section 58.1-608.

(c) All rentals exempt from Virginia Sales and Use Tax, pursuant to Chapter 6 of Title 58.1 of the Virginia Code, shall be exempt from this daily rental tax.

(d) All exemptions from this tax claimed by short-term rental businesses at the time of payment of collected taxes shall be proved by filing of appropriate documentation as directed by the Commissioner of the Revenue.
(Ord. 89-14. Passed 9-19-89.)

880.04 SHORT TERM RENTAL BUSINESS APPLICATION FOR CERTIFICATE OF REGISTRATION.

Every person engaging in the business of short-term rental, as defined in Section 880.01(i), shall file annually for an application for a certificate of registration with the Commissioner of the Revenue for each place of business in Loudoun County from which short-term rental business will be conducted by the applicant. Such application shall be filed by January 31 of each year or within thirty days of the beginning of a short-term rental business. The application shall be on a form prescribed by the Commissioner of the Revenue and shall contain:

- (a) The name under which the applicant intends to operate the rental business;
- (b) The location in Loudoun County from which the rental business will be conducted as well as the location of the rental business headquarters; and
- (c) The figures for the previous year's business, including the total gross receipts from all business, the total gross rental receipts and the total receipts from short-term rental of daily rental property;
- (d) A list of all tangible personal property used for rental the previous year, including a list of all property leased or licensed to the short-term rental business with the name and address of the owner of such property; in case of a new short-term rental business, an estimate of total gross receipts of the business, the total estimated gross rental receipts, and the total estimated gross receipts from the short-term total of daily rental property;
- (e) Such other information as the Commissioner may require;
- (f) An oath by the person making the application or an officer or partner for such applicant that he or she is in fact qualified for tax treatment as a short-term rental business and that he or she shall collect only those daily rental taxes due under the law and that he or she shall remit all daily rental taxes collected to the County.

(Ord. 89-14. Passed 9-19-89.)

880.05 ISSUANCE AND EFFECT OF CERTIFICATE OF REGISTRATION FOR SHORT-TERM DAILY RENTAL BUSINESS.

Upon approval of the application required by Section 880.04, by the Commissioner of the Revenue, a certificate of registration shall be issued from which a daily rental business is conducted in the County by the applicant. The certificate shall be conspicuously displayed at all times at the place of business for which it is issued. The certificate is not assignable and shall be valid only for the person in whose name it is issued and the place of business designated.

(Ord. 89-14. Passed 9-19-89.)

880.06 COLLECTION AND RECORDKEEPING.

Every person engaged in the short-term rental business with a valid certificate of registration from the Commissioner of the Revenue shall collect this daily rental tax from the lessee of the daily rental property at the time of rental.

The person collecting this tax shall maintain a record of all rental transactions for which this tax is collected, which record shall contain:

- (a) A description of the property rented;
 - (b) The period of time for which the property was rented;
 - (c) The name of the person to whom the property was rented; and
 - (d) The amount charged for each rental, including all late charges, penalties and interest.
- (Ord. 89-14. Passed 9-19-89.)

880.07 FILING OF QUARTERLY TAX RETURNS AND REMITTANCE OF TAX.

Each certified short-term rental business under the provisions of this chapter shall file a quarterly tax return with the Commissioner of the Revenue, indicating for the quarter just past:

- (a) The total business gross receipts of the return filer;
- (b) The gross proceeds derived from the short-term rental business;
- (c) All rental gross proceeds claimed to be exempt from the daily rental tax and documentation of each such claim; and
- (d) The total daily rental tax due the County for the previous quarter's short-term rental business.

Each return shall be accompanied by payment of the taxes due and collected by the certified, short-term rental business. The quarterly returns and payment of the tax shall be filed with the Commissioner of the Revenue on or before the twentieth day of each of the months of April, July, October and January, representing, respectively, the gross proceeds and taxes collected during the preceding quarters ending March 31, June 30, September 30 and December 31.

(Ord. 89-14. Passed 9-19-89.)

880.08 TAXES HELD IN TRUST FOR THE COUNTY.

The taxes required to be collected under this chapter shall be deemed to be held in trust by the person required to collect such taxes until remitted as required in this chapter.

(Ord. 89-14. Passed 9-19-89.)

880.09 CONSEQUENCES OF FAILURE OR REFUSAL TO COLLECT TAX.

If any certified short-term rental business in the County fails or refuses to collect the tax imposed under this chapter, its current certificate of registration shall be revoked and the business shall not be subject to the provisions of Sections 58.1-3510, 58.1-3510.1 and 58.1-3706.C of the Virginia Code nor to the provisions of this chapter for the calendar year in which the certificate was revoked. Any payments of daily rental tax made previous to the revocation of the certificate shall be refunded to such lessees as can be identified, with the balance being credited to the omitted assessment of personal property and business license taxes due to the change in taxable status of the short-term rental business.

(Ord. 89-14. Passed 9-19-89.)

880.10 SURCHARGE AND INTEREST; FAILURE TO FILE RETURN OR PAY OVER TAXES COLLECTED.

If any certified short-term rental business fails to file the returns required by this chapter or fails or refuses to remit to the Commissioner of the Revenue the tax collected and paid under this chapter, at the time specified in this chapter, there shall be added to such tax a surcharge in the amount of ten percent of the tax past due or the sum of ten dollars (\$10.00), whichever is greater. The assessment of such penalty shall not be deemed a defense to any criminal prosecution for failure to comply with any of the requirements of this chapter.

Interest on late payments of any taxes due shall be added at the rate of ten percent per year. Surcharge and interest for failure to file the return or to pay the tax due pursuant to this chapter shall be assessed on the first day following the day such quarterly return and tax payment is due. (Ord. 89-14. Passed 9-19-89.)

880.11 UNCERTIFIED RENTERS PROHIBITED FROM COLLECTING TAX.

No person renting any property or services to any other person shall collect from the lessee the daily rental tax authorized by this chapter unless he or she has a valid certificate of registration issued for the current year by the Commissioner of the Revenue. Any taxes collected in a manner not authorized by law shall be forfeited to the County. (Ord. 89-14. Passed 9-19-89.)

880.12 FAILURE TO FILE FOR CERTIFICATE OF REGISTRATION.

In the event a newly established business or previously classified short-term rental business fails to file for certification as a short-term rental business, such business will relinquish the right to be classified as a short-term rental business and all tangible personal property will be subject to taxation under 58.1-3503 of the Code of Virginia. (Ord. 89-14. Passed 9-19-89.)

880.13 TAXATION OF RENTAL PROPERTY THAT IS NOT DAILY RENTAL PROPERTY.

Except for daily rental passenger cars, rental property that is not classified as daily rental property shall be liable for taxation pursuant to Section 58.1-3503 of the Code of Virginia. (Ord. 89-14. Passed 9-19-89.)

880.14 EFFECTIVE DATE.

The tax provided for in this chapter shall be charged on all short-term rental transactions, effective January 1, 1990. (Ord. 89-14. Passed 9-19-89.)

880.99 PENALTY.

Whoever violates or fails to comply with any of the provisions of this chapter shall be guilty of a Class 3 misdemeanor, except as provided below.

If the amount of tax due and unpaid for any quarter exceeds one thousand dollars (\$1,000), any person failing to file a return or remit payment when due and charged with such failure on a criminal warrant shall be guilty of a Class 1 misdemeanor. (Ord. 89-14. Passed 9-19-89.)